

ISSUES PENDING BEFORE THE CALIFORNIA SUPREME COURT IN CIVIL CASES

[These case summaries are made available to inform the public of the general subject matter in cases that the Supreme Court has accepted for review. The statement of the issue or issues in each case set out below does not necessarily reflect the views of the court, or define the specific issues that will be addressed by the court. This compilation is current as of Friday, June 17, 2011.]

American Coatings Assn., Inc. v. South Coast Air Quality Management Dist. (formerly entitled *National Paint & Coating Assn, Inc. v. South Coast Air Quality Management Dist.*), S177823. (G040122; 177 Cal.App.4th 1494; Orange County Superior Court; 03CC00007.) Petition for review after the Court of Appeal affirmed in part and reversed in part the judgment in a civil action. This case presents the following issues: (1) Does Health and Safety Code section 40440, which requires an air quality district to adopt rules requiring use of the “best available retrofit control technology” for air pollution, authorize the district to require technology that does not yet exist? (2) Is technology “available” if it exists and is being used for some, but not all, applications within a particular product category?

American Nurses Assn. v. O’Connell, S184583. (C061150; 185 Cal.App.4th 393; Sacramento County Superior Court; 07AS04631.) Petition for review after the Court of Appeal affirmed the judgment in an action for writ of administrative mandate. This case includes the following issues: (1) Under California law, are designated school personnel who are not licensed nurses allowed to administer insulin to diabetic students pursuant to treating physicians’ orders under a Section 504 Plan (29 U.S.C. § 794; 34 C.F.R. § 104.1 et seq.) or an Individualized Education Program (20 U.S.C. § 1414(d))? (2) If not, is California law preempted by federal law?

Ardon v. City of Los Angeles, S174507. (B201035; 174 Cal.App.4th 369; Los Angeles County Superior Court; BC363959.) Petition for review after the Court of Appeal affirmed an order striking class action allegations in a civil action. This case presents the following issue: Does Government Code section 910 authorize a class claim for refund of a local tax, or must each putative class member file his or her own claim prior to the filing of a class action suit?

Aryeh v. Canon Business Solutions, Inc., S184929. (B213104; 185 Cal.App.4th 1159; Los Angeles County Superior Court; BC384674.) Petition for review after the Court of Appeal affirmed the judgment in a civil action. This case presents the following issues: (1) May the continuing violation doctrine, under which a defendant may be held liable for actions that take place outside the limitations period if those actions are sufficiently linked to unlawful conduct within the limitations period, be asserted in an action under the Unfair Competition Law (Bus. & Prof. Code, § 17200 et seq.)? (2) May the continuous accrual doctrine, under which each violation of a periodic obligation or duty is deemed to give rise to a separate cause of action that accrues at the time of the

individual wrong, be asserted in such an action? (3) May the delayed discovery rule, under which a cause of action does not accrue until a reasonable person in the plaintiff's position has actual or constructive knowledge of facts giving rise to a claim, be asserted in such an action?

Baker v. Workers' Comp. Appeals Bd., S179194. (H034040; 179 Cal.App.4th 1009.) Petition for review after the Court of Appeal annulled a decision of the Board. This case presents the following issue: When do cost-of-living adjustments under Labor Code section 4659, subdivision (c), for payments for total permanent disability and life pensions begin?

Brinker Restaurant Corp. v. Superior Court, S166350. (D049331; 165 Cal.App.4th 25; San Diego County Superior Court; GIC834348.) Petition for review after the Court of Appeal granted a petition for peremptory writ of mandate. This case presents issues concerning the proper interpretation of California's statutes and regulations governing an employer's duty to provide meal and rest breaks to hourly workers.

C.A. v. William S. Hart Union High School Dist., S188982. (B217982; 189 Cal.App.4th 1166; Los Angeles County Superior Court; PC044428.) Petition for review after the Court of Appeal affirmed the judgment in a civil action. This case presents the following issue: May a school district be held liable for the negligent hiring, retention or supervision of a school guidance counselor who molests a student, when district employees who hired the counselor knew that the counselor had a history of child molestation?

California Grocers Assn. v. City of Los Angeles, S176099. (B206750; 176 Cal.App.4th 51; Los Angeles County Superior Court; BC351831.) Petition for review after the Court of Appeal affirmed the judgment in a civil action. This case presents the following issues: Do California food safety laws preempt a local ordinance that requires a grocery store, after a change of ownership, to retain the employees of the former owner for a 90-day transition period? Do federal labor laws do so?

City of Alhambra v. County of Los Angeles, S185457. (B218347; 186 Cal.App.4th 537; Los Angeles County Superior Court; BS116375.) Petition for review after the Court of Appeal reversed the judgment in an action for writ of administrative mandate. This case presents the following issue: Does Revenue and Taxation Code section 97.75 prohibit a county from taking into account property tax revenues diverted from the county's Educational Revenue Augmentation Fund to a city under sections 97.68 and 97.70 when determining, pursuant to section 95.3, the city's share of costs incurred by the county in the assessment, collection, and allocation of property taxes?

Coito v. Superior Court, S181712. (F057690; 182 Cal.App.4th 758; Stanislaus County Superior Court; 624500.) Petition for review after the Court of Appeal granted a

petition for peremptory writ of mandate. This case presents the following issue: Is the statement of a witness that is taken in writing or otherwise recorded verbatim by an attorney or the attorney's representative entitled to the protection of the California work product privilege?

County of Los Angeles v. Los Angeles County Employee Relations Comm., S191944. (B217668; 192 Cal.App.4th 1409; Los Angeles County Superior Court; BS116993.) Petition for review after the Court of Appeal reversed the judgment in an action for writ of administrative mandate. This case presents the following issues: (1) Under the state Constitution (Cal. Const., art. I, § 1), do the interests of non-union-member public employees in the privacy of their personal contact information outweigh the interests of the union representing their bargaining unit in obtaining that information in furtherance of its duties as a matter of labor law to provide fair and equal representation of union-member and non-union-member employees within the bargaining unit? (2) Did the Court of Appeal err in remanding to the trial court with directions to apply a specific notice procedure to protect such employees' privacy rights instead of permitting the parties to determine the proper procedure for doing so?

Diaz v. Carcamo, S181627. (B211127; 182 Cal.App.4th 339, mod. 182 Cal.App.4th 1674a; Ventura County Superior Court; 241085.) Petition for review after the Court of Appeal affirmed the judgment in a civil action. This case presents the following issue: When a plaintiff alleges negligent driving against an employee and negligent hiring against the employer, does the employer's admission of vicarious liability for the employee's negligence eliminate the negligent hiring cause of action and preclude evidence of the employee's poor driving record?

Dicon Fiberoptics v. Franchise Tax Bd., S173860. (173 Cal.App.4th 1082; Los Angeles County Superior Court; BC367885.) Petition for review after the Court of Appeal reversed the judgment in a civil action. This case presents the following issues: (1) When an employer claims an income tax credit under Revenue and Taxation Code section 23622.7 for wages allegedly paid to a "qualified employee" in an enterprise zone, does the certifying voucher obtained from a designated public agency constitute conclusive proof the employer is entitled to the tax credit? (2) If not, does the voucher constitute prima facie evidence that the employer is entitled to the credit and shift to the Franchise Tax Board the burden of proving that the employee was not a "qualified employee"?

Ennabe v. Manosa, S189577. (B222784; 190 Cal.App.4th 707; Los Angeles County Superior Court; KC053945.) Petition for review after the Court of Appeal affirmed the judgment in a civil action. This case presents the following issues: (1) Is a person who hosts a party at a residence, and who furnishes alcoholic beverages and charges an admission fee to uninvited guests, a "social host" within the meaning of Civil Code section 1714, subdivision (c), and hence immune from civil liability for furnishing alcoholic beverages? (2) Under the circumstances here, does such a person fall within an

exception stated by Business and Professions Code section 25602.1 to the ordinary immunity from civil liability for furnishing alcoholic beverages provided by Business and Professions Code section 25602, subdivision (b)?

In re Ethan C., S187587. (B219894; 188 Cal.App.4th 992; Los Angeles County Superior Court; CK78508.) Petition for review after the Court of Appeal affirmed and reversed orders in a dependency proceeding. This case presents the following issues: (1) Is criminal negligence required to support dependency jurisdiction under Welfare and Institutions Code section 300, subdivision (f), on the ground a parent “caused the death of another child through abuse or neglect?” (2) What is the definition of the word “caused” in the context of dependency jurisdiction under the statute? Specifically, does it mean the sole cause or a contributing cause, and should the existence of an intervening, superseding cause be considered? (3) Does the statute require proof of a current or future risk of harm?

Greb v. Diamond Internat. Corp., S183365. (A125472; 184 Cal.App.4th 15; San Francisco County Superior Court; 274989.) Petition for review after the Court of Appeal affirmed the judgment in a civil action. This case presents the following issue: Does Corporations Code section 2010, which does not limit the time for bringing lawsuits against a dissolved corporation, apply to a dissolved foreign corporation, or does the corporate survival law of the state in which the foreign corporation was incorporated apply?

Harris v. City of Santa Monica, S181004. (B199571; 181 Cal.App.4th 1094; Los Angeles County Superior Court; BC341569.) Petition for review after the Court of Appeal reversed the judgment in a civil action. This case presents the following issue: Does the “mixed-motive” defense apply to employment discrimination claims under the Fair Employment and Housing Act (Gov. Code, § 12900 et seq.)?

Harris v. Superior Court, S156555. (B195121, B195370; 154 Cal.App.4th 164; Los Angeles County Superior Court; JCCP No. 4234.) Petition for review after the Court of Appeal granted and denied petitions for peremptory writ of mandate. This case presents the following issue: Do claims adjusters employed by insurance companies fall within the administrative exemption (Cal. Code Regs, tit. 8, § 11040) to the requirement that employees are entitled to overtime compensation?

Howell v. Hamilton Meats & Provisions, Inc., S179115. (D053620; 179 Cal.App.4th 686; San Diego County Superior Court; GIN053925.) Petition for review after the Court of Appeal reversed a post-verdict order in a civil action. This case presents the following issues: (1) Is the “negotiated rate differential” — the difference between the full billed rate for medical care and the actual amount paid as negotiated between a medical provider and an insurer — a collateral source benefit under the collateral source rule, which allows plaintiff to collect that amount as economic damages, or is the plaintiff limited in economic damages to the amount the medical provider

accepts as payment? (2) Did the trial court err in this case when it permitted plaintiff to present the full billed amount of medical charges to the jury but then reduced the jury's award of damages by the negotiated rate differential?

Jankey v. Lee, S180890. (A123006; 181 Cal.App.4th 1173; San Francisco County Superior Court; 463040.) Petition for review after the Court of Appeal affirmed an award of attorney fees in a civil action. This case presents the following issue: Is an award of fees to a prevailing defendant under the California Disabled Persons Act (Civ. Code, § 54 et seq.) inconsistent with, and therefore preempted by, the federal Americans with Disabilities Act (42 U.S.C. § 12101 et seq.)?

In re K.C., S183320. (F058395; 184 Cal.App.4th 120; Kings County Superior Court; 08JD0075.) Petition for review after the Court of Appeal affirmed an order terminating parental rights. This case presents the following issue: What injury must a parent show in order to have standing to contest the denial of a petition for modification seeking placement of a child with a relative when the petition is brought after termination of reunification services but before the selection and implementation hearing?

Kirby v. Immoos Fire Protection, Inc., S185827. (C062306; 186 Cal.App.4th 1361; Sacramento County Superior Court; 07AS00032.) Petition for review after the Court of Appeal affirmed in part and reversed in part an award of attorney fees in a civil action. The court limited review to the following issues: (1) Does Labor Code section 1194 apply to a cause of action alleging meal and rest period violations (Lab. Code, § 226.7) or may attorney's fees be awarded under Labor Code section 218.5? (2) Is our analysis affected by whether the claims for meal and rest periods are brought alone or are accompanied by claims for minimum wage and overtime?

In re L.L., S190230. (F059134; nonpublished opinion; Fresno County Superior Court; 08CEJ300033.) Petition for review after the Court of Appeal affirmed an order terminating parental rights.

In re L.L., S190245. (F059133; nonpublished opinion; Fresno County Superior Court; 08CEJ300033.) Petition for review after the Court of Appeal affirmed an order terminating parental rights.

The court limited review in these two cases to the following issue: Is "criminal" negligence required to support jurisdiction under Welfare and Institutions Code section 300, subdivision (f), or is civil negligence sufficient?

LeFiell Manufacturing Co. v. Superior Court (Watrous), S192759. (B226240; 193 Cal.App.4th 1413; Los Angeles County Superior Court; VC055585.) Petition for review after the Court of Appeal granted a peremptory petition for writ of mandate. This case presents the following issue: Can the spouse of an injured worker claim damages for loss of consortium in an action at law brought by the injured worker under Labor Code section 4558 for damages allegedly caused by an employer's knowing removal of or failure to install a safety guard on a power press?

Leung v. Verdugo Hills Hospital, S192768. (B204908; 193 Cal.App.4th 971; Los Angeles County Superior Court; BC343985.) Petition for review after the Court of Appeal affirmed in part and reversed in part the judgment in a civil action. This case presents the following issue: Should the common law rule that a release for consideration of one joint tortfeasor operates as a release of the joint and several liability of all joint tortfeasors be abandoned in light of statutory and case law modifications of the joint and several liability rule?

Loeffler v. Target Corp., S173972. (B199287; 173 Cal.App.4th 1229; Los Angeles County Superior Court; BC360004.) Petition for review after the Court of Appeal affirmed the judgment in a civil action. This case presents the following issue: Does article XIII, section 32 of the California Constitution or Revenue and Taxation Code section 6932 bar a consumer from filing a lawsuit against a retailer under the Unfair Competition Law (Bus. & Prof. Code §§ 17200 et seq.) or the Consumers Legal Remedies Act (Civ. Code, § 1750 et seq.) alleging that the retailer charged sales tax on transactions that were not taxable?

Los Angeles County Metropolitan Transit Authority v. Alameda Produce Market, S188128. (B212643; nonpublished opinion; Los Angeles County Superior Court; BC313010.) Petition for review after the Court of Appeal reversed the judgment in a civil action. This case presents the following issue: Does a lender's withdrawal of a portion of the deposit of probable compensation in an eminent domain proceeding effect a waiver under Code of Civil Procedure section 1255.260 of the property owner's right to challenge the taking?

Nelson v. Exxon Mobil Corp., S179122. (C059615, C060271; 179 Cal.App.4th 633; Sacramento County Superior Court; 02AS00535.) Petition for review after the Court of Appeal affirmed an order in a civil action and granted a petition for peremptory writ of mandate. This case presents the following issues: (1) Is the right to recover punitive damages assignable if it arises from an assignable cause of action for property damage, and the property is itself also transferred? (2) If not, may the assignee nonetheless pursue punitive damages if the assignee is merely a continuation of the assignor in a different legal form?

O'Neil v. Crane Co., S177401. (B208225; 177 Cal.App.4th 1019; Los Angeles County Superior Court; BC360274.) Petition for review after the Court of Appeal reversed the judgment in a civil action. This case presents the following issue: Can the manufacturer of valves and fittings installed on Navy ships, and designed to be used with asbestos packing, gaskets, and insulation, rely on the "component parts" defense or related theories to preclude strict liability for asbestosis injuries years later suffered by seamen on those ships?

Pacific Palisades Bowl Mobile Estates, LLC v. City of Los Angeles, S187243. (B216515; 187 Cal.App.4th 1461; Los Angeles County Superior Court; BS112956.)

Petition for review after the Court of Appeal reversed an order granting a petition for writ of administrative mandate. This case presents the following issues: (1) Do the Mello Act (Gov. Code, §§ 65590, 65590.1) and the California Coastal Act of 1976 (Pub. Resources Code, § 30000 et seq.) apply to the conversion of a mobilehome park to resident ownership if the park is located within the coastal zone? (2) Do the limits imposed by Government Code section 66427.5 on the scope of a hearing on an application for conversion of such a mobilehome park to resident ownership prohibit the local authority from requiring compliance with the Mello Act and the California Coastal Act when the mobilehome park is located within the coastal zone?

Parks v. MBNA America Bank, N.A., S183703. (G040798; 184 Cal.App.4th 652; Orange County Superior Court; 04CC00598.) Petition for review after the Court of Appeal reversed the judgment in a civil action. This case presents the following issues: (1) Is Civil Code section 1748.9, which requires credit card issuers to make certain disclosures on checks issued to cardholders for cash advances from the cardholders' credit card accounts, preempted by the National Bank Act (12 U.S.C. § 21 et seq.)? (2) Is 12 Code of Federal Regulations section 7.4008, which was promulgated under the National Bank Act by the Office of the Comptroller of the Currency and which provides that state laws that impair a nationally chartered bank's non real-estate banking powers are not applicable to nationally chartered banks, a valid regulation?

People v. Barrett, S180612. (H034154; 181 Cal.App.4th 196; Santa Clara County Superior Court; MH034663.) Petition for review after the Court of Appeal affirmed an order of commitment under Welfare and Institutions Code section 6500. This case presents the following issue: Do principles of due process or equal protection require the trial court to affirmatively advise a person facing commitment under Welfare and Institutions Code section 6500 of his or her right to a jury trial and, if so, to obtain an express waiver of that right on the record?

Perry v. Brown (formerly entitled *Perry v. Schwarzenegger*), S189476. (Ninth Cir. No. 10-16751; 630 F.3d 898; Northern District of California; No. 3:09-cv-02292-VRW.) Request under California Rules of Court, rule 8.548, that this court decide a question of California law presented in a matter pending in the United States Court of Appeals for the Ninth Circuit. As stated by the Ninth Circuit, the question presented is: "Whether under Article II, Section 8 of the California Constitution, or otherwise under California law, the official proponents of an initiative measure possess either a particularized interest in the initiative's validity or the authority to assert the State's interest in the initiative's validity, which would enable them to defend the constitutionality of the initiative upon its adoption or appeal a judgment invalidating the initiative, when the public officials charged with that duty refuse to do so."

Pinnacle Museum Tower Assn. v. Pinnacle Market Development (US), LLC, S186149. (D055442; 187 Cal.App.4th 24; San Diego County Superior Court; 37-2008-00096678-CU-CD-CTL.) Petition for review after the Court of Appeal affirmed an order

denying a motion to compel arbitration in a civil action. This case presents the following issues: (1) Is a homeowners association bound by an arbitration provision contained in the covenants, conditions and restrictions for a common interest development that were executed and recorded prior to the time the association came into existence? (2) Did the Court of Appeal err by applying the state law doctrine of unconscionability only to the arbitration provision, and not to other provisions in the covenants, conditions and restrictions, in light of federal law prohibiting the application of state law to treat arbitration provisions differently from other provisions of the same agreement? (See *Allied-Bruce Terminix Cos. v. Dobson* (1995) 513 U.S. 265.)

Quarry v. Doe 1, S171382. (A120048; 170 Cal.App.4th 1574; Alameda County Superior Court; HG07313640.) Petition for review after the Court of Appeal reversed the judgment in a civil action. This case presents the following issue: Did the Court of Appeal err in concluding that plaintiffs were entitled to rely on the delayed discovery provisions of the statute of limitations (Code Civ. Proc., § 340.1) for claims of childhood sexual abuse against specified non-perpetrators who knew of the abuse and had the ability to prevent it but failed to do so?

Ralphs Grocery Co. v. United Food & Commercial Workers Union Local 8, S185544. (C060413; 186 Cal.App.4th 1078; Sacramento County Superior Court; 34-2008-00008682-CU-OR-GD.) Petition for review after the Court of Appeal reversed an order denying a preliminary injunction in a civil action. This case presents the following issues: (1) Did the Court of Appeal err in concluding that the parking area and walkway in front of the entrance to plaintiff's retail store, which is part of a larger shopping center, do not constitute a public forum under *Robins v. Pruneyard Shopping Center* (1979) 23 Cal.3d 899 and its progeny? (2) Do the Moscone Act (Code Civ. Proc. § 527.3) and Labor Code section 1138.1, which limit the availability of injunctive relief in labor disputes, violate the First and Fourteenth Amendments of the United States Constitution because they afford preferential treatment to speech concerning labor disputes over speech about other issues?

Retired Employees Assn. v. County of Orange, S184059. (Ninth Cir. No. 09-56026; 610 F.3d 1099; Central District of California; No. SACV 07-1301 AG.) Request under California Rules of Court, rule 8.548, that this court decide questions of California law presented in a matter pending in the United States Court of Appeals for the Ninth Circuit. As stated by the Ninth Circuit, the question presented is: "Whether, as a matter of California law, a California county and its employees can form an implied contract that confers vested rights to health benefits on retired county employees."

Riverisland Cold Storage, Inc. v. Fresno-Madera Production Credit Assn., S190581. (F058434; 191 Cal.App.4th 611; Fresno County Superior Court; 08CECG01416.) Petition for review after the Court of Appeal affirmed in part and reversed in part the judgment in a civil action. This case presents the following issue: Does the fraud exception to the parol evidence rule permit evidence of a

contemporaneous factual misrepresentation as to the terms contained in a written agreement at the time of execution, or is such evidence inadmissible under *Bank of America National Trust & Savings Association v. Pendergrass* (1935) 4 Cal.2d 258, 263, as “a promise directly at variance with the promise of the writing”?

Rossa v. D. L. Falk Constr., Inc., S183523. (A125567; 184 Cal.App.4th 438; San Mateo County Superior Court; 442294.) Petition for review after the Court of Appeal affirmed a post-judgment order in a civil action. This case presents the following issue: Does California Rules of Court, rule 8.278(d)(1)(F), which permits a successful appellant to recover “the cost to obtain a letter of credit as collateral,” allow the recovery of interest paid on sums borrowed to fund a letter of credit used to secure a surety bond?

Sargon Enterprises, Inc. v. University of Southern California, S191550. (B202789; nonpublished opinion; Los Angeles County Superior Court; BC209992.) Petition for review after the Court of Appeal reversed the judgment in a civil action. This case presents the following issue: Did the trial court err in excluding proffered expert opinion testimony regarding lost profits?

Save The Plastic Bag Coalition v. City of Manhattan Beach, S180720. (B215788; 181 Cal.App.4th 521; Los Angeles County Superior Court; BS116362.) Petition for review after the Court of Appeal affirmed the judgment in an action for writ of administrative mandate. This case presents the following issues: (1) Did an association of plastic bag manufacturers have standing to challenge a local ordinance banning the use of plastic bags? (2) Did the trial court err in ruling the ordinance invalid for the failure to prepare an environmental impact report?

SeaBright Ins. Co. v. U.S. Airways, Inc., S182508. (A123726; 183 Cal.App.4th 219; San Francisco County Superior Court; 458707.) Petition for review after the Court of Appeal reversed the judgment in a civil action. This case includes the following issue: When an employee of an independent contractor sustains an on-the-job injury, can the hirer of the contractor be liable on the theory that the hirer’s breach of a non-delegable duty contained in a statute or regulation constituted an “affirmative contribution” to the injury within the meaning of *Hooker v. Dept. of Transp.* (2002) 27 Cal.4th 198, 212, footnote 3?

Serrano v. Stefan Merli Plastering Co., Inc., S183372. (B215837; 184 Cal.App.4th 178; Los Angeles County Superior Court; BC324031.) Petition for review after the Court of Appeal affirmed an order denying attorney fees in a civil action. This case presents the following issue: Is plaintiff eligible for an award of attorney fees under the private attorney general doctrine based on a successful challenge to a court reporter’s service charges that established legal precedent?

Shalant v. Girardi, S182629. (B211932, B214302; 183 Cal.App.4th 545; Los Angeles County Superior Court; BC363843.) Petition for review after the Court of

Appeal reversed the judgment in a civil action. This case presents the following issue: If a vexatious litigant subject to a prefiling order files a lawsuit while represented by counsel, but counsel substitutes out or is otherwise relieved, may the litigant proceed in propria persona without first obtaining the approval of the presiding judge under Code of Civil Procedure section 391.7?

State Building & Construction Trades Council of California v. City of Vista, S173586. (D052181; 173 Cal.App.4th 567; San Diego County Superior Court; 37-2007-00054316-CU-WM-NC.) Petition for review after the Court of Appeal affirmed the judgment in an action for writ of administrative mandate. This case presents the following issue: Does California's prevailing wage law (Lab. Code, § 1720 et seq.) apply to a charter city when it contracts to construct public works projects with municipal funds?

State of California v. Continental Ins. Co., S170560. (E041425; 170 Cal.App.4th 160; Riverside County Superior Court; 239784.) Petition for review after the Court of Appeal reversed the judgment in a civil action. This case presents the following issues: (1) When continuous property damage occurs during the periods of several successive liability policies, is each insurer liable for all damage both during and outside its period up to the amount of the insurer's policy limits? (2) If so, is the "stacking" of limits — i.e., obtaining the limits of successive policies — permitted?

Sullivan v. Oracle Corporation, S170577. (9th Cir. No. 06-56649; 557 F.3d 979; Central District of California; CV-05-00392-AHS.) Request under California Rules of Court, rule 8.548, that this court decide questions of California law presented in a matter pending in the United States Court of Appeals for the Ninth Circuit. The questions presented are: "(1) Does the California Labor Code apply to overtime work performed in California for a California-based employer by out-of-state plaintiffs in the circumstances of this case, such that overtime pay is required for work in excess of eight hours per day or in excess of forty hours per week? (2) Does [Business and Professions Code section] 17200 [et seq.] apply to the overtime work described in question one? (3) Does [section] 17200 [et seq.] apply to overtime work performed outside of California for a California-based employer by out-of-state plaintiffs in the circumstances of this case if the employer failed to comply with the overtime provisions of the [federal Fair Labor Standards Act (29 U.S.C. § 207 et seq.)]?"

Tomlinson v. County of Alameda, S188161. (A125471; 188 Cal.App.4th 1406; Alameda County Superior Court; RG08396845.) Petition for review after the Court of Appeal reversed the judgment in an action for writ of administrative mandate. This case presents the following issue: Does Public Resources Code section 21177 require a petitioner to exhaust administrative remedies before filing an action challenging a public agency's decision that a proposed project is categorically exempt from the California Environmental Quality Act (Pub. Resources Code, § 21000 et seq.)?

United Teachers Los Angeles v. Los Angeles Unified School Dist., S177403. (B214119; 177 Cal.App.4th 863; Los Angeles County Superior Court; BS116739.) Petition for review after the Court of Appeal reversed an order denying a petition to compel arbitration. This case presents the following issue: Can a school district be required to arbitrate disputes over the granting of a charter school petition under the terms of a collective bargaining agreement, or does Education Code section 47611.5, subdivision (e), preclude referring such a dispute to arbitration?

Voices of the Wetlands v. State Water Resources Control Bd., S160211. (H028021; 157 Cal.App.4th 1268; Monterey County Superior Court; M54889.) Petition for review after the Court of Appeal affirmed the judgment in an action for writ of administrative mandate. This case presents issues concerning the application of section 316(b) of the Clean Water Act (33 U.S.C. § 1326(b)) to the issuance of a National Pollutant Discharge Elimination System permit.

In re W.B., S181638. (E047368; 182 Cal.App.4th 126; Riverside County Superior Court; RIJ114127.) Petition for review after the Court of Appeal affirmed an order in a juvenile wardship proceeding. This case presents the following issue: Is Welfare and Institutions Code section 224.3, which requires tribal notification under the Indian Child Welfare Act (25 U.S.C. § 1901 et seq.) of a juvenile delinquency proceeding (Welf. & Inst. Code, § 602) when a juvenile is charged with an act that would be a crime if committed by an adult, preempted because it expands jurisdiction to proceedings expressly excluded from the Act?

Zhang v. Superior Court, S178542. (E047207; 178 Cal.App.4th 1081; San Bernardino County Superior Court; CIVVS701287.) Petition for review after the Court of Appeal granted a petition for peremptory writ of mandate. This case presents the following issues: (1) Can an insured bring a cause of action against its insurer under the unfair competition law (Bus. & Prof. Code, § 17200) based on allegations that the insurer misrepresents and falsely advertises that it will promptly and properly pay covered claims when it has no intention of doing so? (2) Does *Moradi-Shalal v. Fireman's Fund Ins. Companies* (1988) 46 Cal.3d 287 bar such an action?